



US Army Corps
of Engineers

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

Regulatory Branch
333 Market Street
San Francisco, CA 94105-2197

NUMBER: 20790N
RESPONSE REQUIRED

DATE: December 24, 2004
BY: January 24, 2005

PERMIT MANAGER: Katerina Galacatos

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1. INTRODUCTION: Mr. Ted Rose of Waldo Point Harbor, 3 Harbor Drive, Sausalito, California 94965, (415-302-1895), through his agent Wetlands Research Associates, 2169 East Francisco Boulevard, Suite G, San Rafael, California 94901 has applied for a U.S. Army Corps of Engineers (Corps) permit to reconfigure and expand an existing 245-berth houseboat marina to 283 berths and to construct public pathways, a shoreline park, and additional parking spaces. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. Section 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 403).

2. PROPOSED PROJECT:

Project Site: The project will be located in an unincorporated area of Marin County, near the City of Sausalito on Gate 5 Road in Marin County, California (Figure 1). The project site is bounded to the north by Kappas and Yellow Ferry houseboat marinas and to the south by the Clipper Marina. Current conditions at the site consist of five organized docks where houseboats are designated berths, and one dock where houseboats have settled in any available location over time (known collectively as the Gates Cooperative). The 45 acre project area includes 0.11 acres of jurisdictional wetland and 36.71 acres of jurisdictional waters (Fig. 2). The jurisdictional wetlands are small areas distributed throughout the project site and are dominated by saltgrass, *Distichlis spicata*, and

pickleweed, *Salicornia virginica*.

Project Description: As shown in the attached drawings (Figs. 3, 4A and 4B), the applicant plans to reconfigure and expand the existing 245-berth Waldo Point Harbor houseboat marina to accommodate 283 berths. The applicant proposes to relocate 38 Gates Cooperative Houseboats in areas of the marina designated as open water. Specific project details include the construction of: 1) a 250 foot long floating dock; 2) floats and piers for public viewing; 3) a 0.8 acre shoreline park; 4) a 0.5 acre 8-10 foot wide public access pathways along the entire perimeter of the project site; and 5) a new parking lot for 134 vehicles.

Purpose and Need: The basic purpose of this project is to provide berths for houseboats. According to the applicant, the overall project purpose is to provide the following: 1) permanent mooring for 283 houseboats that meets current building codes; 2) removal of unauthorized fill from Richardson Bay; 3) State property that can be better used for public trust purposes, including navigation, fishing, recreation, and open space; 4) public recreation areas through construction of a shoreline park and pathway; 5) additional public and residential parking spaces; 6) erosion protection to the shoreline; and 7) reducing flood hazards from high tides by raising existing grades along the shoreline.

Impacts: The project will result in 401 cubic yards

of fill into 0.11 acres of Corps jurisdictional wetlands and 4,444 cubic yards of fill in 1.26 acres of Corps jurisdictional waters (Fig. 5).

Mitigation: The applicant has proposed to create 0.11 acres of wetland area to compensate for impacts to jurisdictional wetlands which could not be avoided (Fig. 6). The applicant has proposed to remove 0.96 acres of abandoned and unusable fill material from the bay including the old Gates Dock, utilities, any houseboats failing to satisfy County codes, and sunken debris.

3. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act of 1969 (NEPA): The Corps will assess the environmental impacts of the proposed action in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. Section 4371 et. seq.), the Council on Environmental Quality's Regulations, 40 C.F.R. Part 1500-1508, and Corps' Regulations, 33 C.F.R. Part 230 and 325, Appendix B. Unless otherwise stated, the Environmental Assessment will describe only the impacts (direct, indirect, and cumulative) resulting from activities within the Corps' jurisdiction. The documents used in the preparation of the Environmental Assessment will be on file with the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 333 Market Street, San Francisco,

Endangered Species Act of 1973 (ESA): Section 7 of the Endangered Species Act requires formal consultation with the U.S. Fish and Wildlife Service (FWS) and/or the National Marine Fisheries Service (NMFS) if a Corps permitted project may adversely affect any Federally listed threatened or endangered species or its designated critical habitat. Species and critical habitat currently identified as potentially impacted by the proposed project include Central

California Coast threatened steelhead (*Oncorhynchus mykiss*), Central Valley threatened steelhead (*O. mykiss*), Central Valley Spring-Run chinook (*O. tshawytscha*), Sacramento River Winter-Run chinook (*O. tshawytscha*), Central California Coast threatened coho salmon (*O. kisutch*), and designated critical habitat for these salmonid fish species.

Magnuson-Stevens Fisheries Conservation and Management Act: NMFS and several interagency fisheries councils have designated specific water bodies as Essential Fish Habitat (EFH) in accordance with the Magnuson-Stevens Fisheries Conservation and Management Act. Coordination with the NMFS in regard to EFH will be initiated concurrently with the ESA consultation, if necessary.

Clean Water Act of 1972 (CWA):

a. Water Quality: Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must first obtain a State water quality certification before a Corps permit may be issued. The applicant is notified by this Public Notice that, unless he provides the Corps with evidence of a valid request for State water quality certification to the San Francisco Bay Region Regional Water Quality Board within 30 days of the date of this Public Notice, the Corps may consider this application withdrawn. No Corps permit will be granted until the applicant obtains the required water quality certification. The Corps may assume a waiver of water quality certification if the State fails or refuses to act on a valid request for certification within 60 days after the receipt of a valid request, unless the District Engineer determines a shorter or longer period is reasonable for the State to act.

Those parties concerned with any water quality issues that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland,

California 94612; by the close of the comment period of this Public Notice.

b. Alternatives: Evaluation of this proposed activity's impact includes application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act (33 U.S.C. Section 1344(b)). The Corps is awaiting receipt of the applicant's Analysis of Alternatives for the project and it will be reviewed for compliance with the guidelines.

Coastal Zone Management Act of 1972 (CZMA): Section 307 of the Coastal Zone Management Act requires the applicant to certify that the proposed project will comply with the State's Coastal Zone Management Program, if applicable. No Corps permit will be issued until the State has concurred with the applicant's certification. Coastal development issues should be directed to the San Francisco Bay Conservation and Development Commission (BCDC), 50 California Street, Suite 2600, San Francisco, California 94111.

National Historic Preservation Act of 1966 (NHPA): Based on a review of survey data on file with various City, State and Federal agencies, no historic or archeological resources are known to occur in the project vicinity. If unrecorded resources are discovered during construction of the project, operations will be suspended until the Corps completes consultation with the State Historic Preservation Office (SHPO) in accordance with Section 106 of the National Historic Preservation Act.

4. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of

important resources. The benefits that reasonably may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including its cumulative effects. Among those factors are: conservation, economics, aesthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

5. CONSIDERATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public, Federal, State and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest in the proposed activity.

6. SUBMISSION OF COMMENTS: Interested parties may submit, in writing, any comments concerning this activity. Comments should include the applicant's name and the number and the date of this Public Notice, and should be forwarded so as to reach this office within the comment period specified on Page 1. Comments should be sent to the U.S. Army Corps of Engineers, San Francisco District,

Regulatory Branch, 333 Market Street, San Francisco, California 94105-2197. It is the Corps' policy to forward any such comments that include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this Public Notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Additional details may be obtained by contacting the applicant whose name and address are indicated in the first paragraph of this Public Notice or by contacting Katerina Galacatos of our office at telephone 415-977-8440 or E-mail: Katerina.Galacatos@spd02.usace.army.mil. Details on any changes of a minor nature which are made in the final permit action will be provided upon request.